

**UNITED STATES DISTRICT COURT**

## EASTERN DISTRICT OF TEXAS

ROBERT NORMAN SMITHBACK,

Plaintiff,

*versus*

SHDRICK D. WILSON,

Defendant.



CIVIL ACTION NO. 1:19-CV-19

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Plaintiff Norman Smithback filed a criminal complaint against Shedrick D. Wilson. The court previously referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the case be dismissed.

The court has received the Report and Recommendation, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation. The court must therefore conduct a *de novo* review of the objections in relation to the pleadings and the applicable law.


Mr. Smithback requests that Mr. Wilson be prosecuted for treason and for violating his civil rights under color of law. The magistrate judge's recommendation was based on his conclusion that, because a private citizen has no authority to initiate a criminal prosecution, Mr. Smithback has no legal standing to pursue this matter.

After considering the objections, the court agrees with the conclusion of the magistrate judge. “It is well-settled that the decision whether to file criminal charges against an individual lies with the prosecutor’s discretion, and private citizens do not have a constitutional right to compel criminal prosecution.” *Lewis v. Jindal*, 368 F. App’x 613, 614 (5th Cir. 2010) (citing *United States v. Batchelder*, 442 U.S. 114, 124 (1979)). As a result, this matter will be dismissed.

**ORDER**

Accordingly, the objections filed by plaintiff are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment shall be entered dismissing this case.

SIGNED at Beaumont, Texas, this 28th day of January, 2021.

A handwritten signature in black ink, reading "Marcia A. Crone". The signature is written in a cursive style with a horizontal line underneath it.

MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE